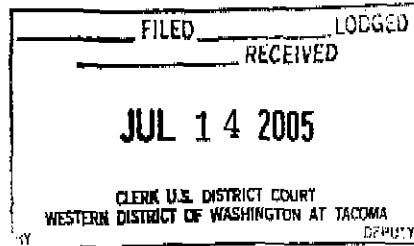


1 MAGISTRATE JUDGE ARNOLD
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,) NO. CR05-5384
Plaintiff,) FINDINGS AND ORDER ACCEPTING
vs.) DEFENDANT FOR DEFERRED
RYAN McGINTY,) PROSECUTION, APPROVING
Defendant/Petitioner.) TREATMENT PLAN, AND DIRECTING
) DEFENDANT TO TAKE TREATMENT
) AS PRESCRIBED
) (Clerk's Action Required)

THIS MATTER, coming on for hearing this 14th day of July, 2005, upon the defendant's Petition for Deferred Prosecution; the defendant appearing in person and by his attorney, Linda R. Sullivan, Assistant Federal Public Defender; the United States of America being represented by Barbara Sievers, Assistant United States Attorney; the Court, having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Madigan Army Medical Center, and the files and records herein, being fully advised in the premises, does now make and enter the following:



05-CR-05384-ORD

I. FINDINGS OF FACT

2 A. On or about the 6th day of May, 2005, Petitioner was charged with the
3 offense/offenses charged in the Information. This offense occurred as a direct result of
4 alcoholism/chemical dependency problems;

B. Petitioner suffers from an alcohol/drug problem and is in need of treatment;

6 C. The probability of similar misconduct in the future is great if the problem is
7 not treated;

8 D. Petitioner is amenable to treatment;

9 E. An effective rehabilitative treatment plan is available to Petitioner through the
10 Madigan Army Medical Center, an approved treatment facility as designated by the laws of
11 the State of Washington, and Petitioner agrees to be liable for all costs of this treatment
12 program:

13 F. That Petitioner agrees to comply with the terms and conditions of the program
14 offered by the treatment facility as set forth in the diagnostic evaluation from Madigan Army
15 Medical Ccenter, attached to Statement of Petitioner filed herewith, and that Petitioner agrees
16 to be liable for all costs of this treatment program; Petitioncr agrees to continue treatment
17 with an appropriate facility in the Braddock, Pennsylvania, area, upon his release from the
18 U.S. Army.

19 G. That Petitioner has knowingly and voluntarily stipulated to the admissibility
20 and sufficiency of the facts as contained in the written police report attached to Statement of
21 Petitioner filed herewith.

22 H. That Petitioner has acknowledged the admissibility of the stipulated facts in
23 any criminal hearing or trial on the underlying offense or offenses held subsequent to
24 revocation of this Order Granting Deferred Prosecution and that these reports will be used
25 to support a finding of guilt;

26 From the foregoing **FINDINGS OF FACT**, the Court draws the following:

II. CONCLUSIONS OF LAW

A. That the above-entitled Court has jurisdiction over the subject matter and Petitioner McGinty, in this case;

4 B. That Petitioner's Petition for Deferred Prosecution meets the requirements of
5 RCW 10.05 et seq.;

6 C. That the diagnostic evaluation and commitment to treatment meets the
7 requirements of RCW 10.05.150;

8 D. That Petitioner is eligible for deferred prosecution.

III. ORDER

10 Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS
11 OF LAW, it is hereby

12 ORDERED that the defendant is accepted for deferred prosecution. The prosecution
13 of the above-entitled matter is hereby deferred for a five (5) years pursuant to RCW 10.05 et
14 seq., upon the following terms and conditions:

15 A. Petitioner shall be on probation for the deferral period and follow the rules and
16 regulations of probation;

17 B. Petitioner shall enroll in and successfully complete the two-year treatment
18 program recommended by Madigan Army Medical Center according to the terms and
19 conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is
20 attached to the Petition and incorporated herein by reference. Petitioner shall not change
21 treatment agencies without prior Probation approval;

22 C. The treatment facility, Madigan Army Medical Center, shall file with the
23 United States Probation Office status reports of Petitioner's compliance with treatment,
24 monthly during the first year of the deferred prosecution period and every three (3) months
25 during the second year. The Court may increase the frequency of these reports at its
26 discretion:

- 1 D. Petitioner shall notify U.S. Probation within 72 hours of any residence change.
- 2 E. Petitioner shall abstain during the deferred prosecution period from any and all
- 3 consumption of alcoholic beverages and/or non-prescribed mind-altering drugs;
- 4 F. Petitioner shall not operate a motor vehicle on the public highways without a
- 5 valid operator's license and proof of liability insurance sufficient to comply with the state
- 6 laws on financial responsibility;
- 7 G. Petitioner shall be law abiding and shall not commit any alcohol/drug related
- 8 offenses or other criminal offenses during the period of deferral,
- 9 H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,
- 10 questioned, or cited by Law Enforcement;
- 11 I. In the event that Petitioner fails or neglects to carry out and fulfill any term or
- 12 condition of his treatment plan or violates any provision of this Order or any rule or
- 13 regulation of his probation officer, upon receiving notice, the Court shall hold a hearing to
- 14 determine why Petitioner should not be removed from deferred prosecution and prosecuted
- 15 for the offense/offenses charged;
- 16 J. In the event the Court finds cause to revoke this deferred prosecution, the
- 17 stipulated police reports shall be admitted into evidence, and Petitioner shall have her guilt
- 18 or innocence determined by the Court;
- 19 K. That the statement of Petitioner for Deferred Prosecution shall remain sealed,
- 20 and all subsequent reports or documents relating to her treatment information shall be sealed,
- 21 to maintain confidentiality of Petitioner's treatment information;
- 22 L. That the Department of Licensing be notified of this Order accepting the
- 23 Petitioner for deferred prosecution;
- 24 M. Upon proof of Petitioner's successful completion of five years deferral period
- 25 in this Order, the Court shall dismiss the charges pending against Petitioner.
- 26

1 N. Additional conditions: _____

2 _____
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6 DONE IN OPEN COURT this 14th day of July, 2005.

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10 JUDGE J. KELLEY ARNOLD
11 UNITED STATES MAGISTRATE JUDGE

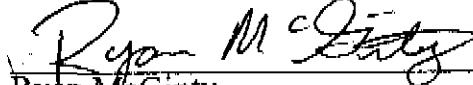
12 Presented by:

13 Linda R. Sullivan

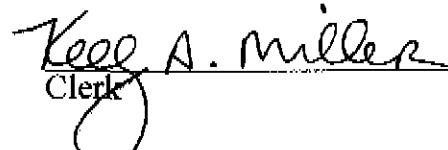
14 Linda R. Sullivan
15 Attorney for Petitioner

16 I have received a copy of the foregoing Order of Deferred Prosecution. I have read
17 and understand its contents, and agree to abide by the terms and conditions set forth herein.

18 Dated: _____

19 
20 Ryan McGinty
21 Petitioner

22 I certify that a copy of this signed Order was mailed to the subject treatment facility,
23 on July 18, 2005. The United States Probation Office was also furnished a copy of this
24 Order.

25 
26 Clerk